

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
1515 Clay Street, 20th Floor
5 Post Office Box 70550
Oakland, California 94612-0550
6 Telephone: (510) 622-2143
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case Number 2013-918

12 **JANET ARLENE MATTHEWS**
13 **a.k.a. JANET ARLENE PALUMBO**
14 **3682 Silverstone Court NE**
Salem, Oregon 97305

A C C U S A T I O N

15 **Registered Nurse License Number 441790**
16 **Nurse Practitioner Certificate Number**
22273

17 Respondent.

18
19 Complainant Louise R. Bailey, M.Ed., R.N., alleges:

20 **PARTIES**

- 21 1. Complainant brings this accusation solely in her official capacity as the Executive
22 Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.
- 23 2. On or about July 31, 1989, the Board issued Registered Nurse License Number
24 441790 to respondent Janet Arlene Matthews, a.k.a. Janet Arlene Palumbo. This registered nurse
25 license was in full force and effect at all times relevant to the charges brought in this accusation
26 and will expire on March 31, 2015, unless renewed.
- 27 3. On or about August 20, 2012, the Board issued Nurse Practitioner Certificate Number
28 22273 to respondent Janet Arlene Matthews, a.k.a. Janet Arlene Palumbo. This nurse practitioner

1 certificate was in full force and effect at all times relevant to the charges brought in this
2 accusation and will expire on March 31, 2015, unless renewed.

3 JURISDICTION

4 4. This accusation is brought before the Board under the authority of the following laws.
5 All section references are to the Business and Professions Code unless otherwise indicated.

6 5. Section 118, subdivision (b) provides:

7 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
8 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
9 of a court of law, or its surrender without the written consent of the board, shall not, during any
10 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
11 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
12 provided by law or to enter an order suspending or revoking the license or otherwise taking
13 disciplinary action against the licensee on any such ground."

14 6. Section 2750 provides:

15 "Every certificate holder or licensee, including licensees holding temporary licenses, or
16 licensees holding licenses placed in an inactive status, may be disciplined as provided in this
17 article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this
18 article, 'license' includes certificate, registration, or any other authorization to engage in practice
19 regulated by this chapter. The proceedings under this article shall be conducted in accordance
20 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
21 Government Code, and the board shall have all the powers granted therein."

22 7. Section 2759 provides:

23 "The board shall discipline the holder of any license, whose default has been entered or
24 who has been heard by the board and found guilty, by any of the following methods:

25 "(a) Suspending judgment.

26 "(b) Placing him upon probation.

27 "(c) Suspending his right to practice nursing for a period not exceeding one year.

28 "(d) Revoking his license.

1 “(e) Taking such other action in relation to disciplining him as the board in its discretion
2 may deem proper.”

3 8. Section 2764 provides:

4 “The lapsing or suspension of a license by operation of law or by order or decision of the
5 board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the
6 board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding
7 against such license, or to render a decision suspending or revoking such license.”

8 **STATUTORY AND REGULATORY AUTHORITY**

9 9. Section 141 provides:

10 “(a) For any licensee holding a license issued by a board under the jurisdiction of the
11 department, a disciplinary action taken by another state, by any agency of the federal government,
12 or by another country for any act substantially related to the practice regulated by the California
13 license, may be a ground for disciplinary action by the respective state licensing board. A
14 certified copy of the record of the disciplinary action taken against the licensee by another state,
15 an agency of the federal government, or another country shall be conclusive evidence of the
16 events related therein.

17 “(b) Nothing in this section shall preclude a board from applying a specific statutory
18 provision in the licensing act administered by that board that provides for discipline based upon a
19 disciplinary action taken against the licensee by another state, an agency of the federal
20 government, or another country.”

21 10. Section 2761 provides, in pertinent part:

22 “The board may take disciplinary action against a certified or licensed nurse or deny an
23 application for a certificate or license for any of the following:

24 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

25 ...

26 “(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action
27 against a health care professional license or certificate by another state or territory of the United
28 States, by any other government agency, or by another California health care professional

1 licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that
2 action.”

3 11. California Code of Regulations, title 16, section 1444, provides:

4 “A conviction or act shall be considered to be substantially related to the qualifications,
5 functions or duties of a registered nurse if to a substantial degree it evidences the present or
6 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
7 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

8 “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
9 subdivision (d) of Penal Code Section 11160.

10 “(b) Failure to comply with any mandatory reporting requirements.

11 “(c) Theft, dishonesty, fraud, or deceit.

12 “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
13 Penal Code.”

14 **COST RECOVERY**

15 12. Section 125.3 provides, in pertinent part:

16 “(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
17 proceeding before any board within the department or before the Osteopathic Medical Board,
18 upon request of the entity bringing the proceedings, the administrative law judge may direct a
19 licensee found to have committed a violation or violations of the licensing act to pay a sum not
20 to exceed the reasonable costs of the investigation and enforcement of the case.

21 ...

22 “(i) Nothing in this section shall preclude a board from including the recovery of the costs
23 of investigation and enforcement of a case in any stipulated settlement.”

24 **FACTUAL BACKGROUND**

25 13. In Oregon, respondent is a registered nurse under license number 077038880RN, and
26 a family nurse practitioner under certificate number 200150137NP. In Texas, respondent was a
27 registered nurse under license number 552528.

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1 14. On or about March 16, 2004, the Board of Nursing for the State of Oregon (Oregon
2 Board) issued a Notice of Proposed Suspension of Family Nurse Practitioner Certificate (Notice)
3 to respondent. This Notice stated that the Oregon Board proposed to suspend respondent's
4 Oregon family nurse practitioner certificate because in 2002 she prescribed an inappropriate
5 medication for a patient and did not prescribe the community standard regiment of antibiotics for
6 an infection in that same patient.

7 15. On or about April 15, 2004, the Oregon Board issued a Final Order by Default,
8 suspending respondent's Oregon certificate because she did not request a hearing on the Notice
9 within the allotted 20 days. It also ordered that respondent could reinstate her Oregon certificate
10 if she complied with certain conditions.

11 16. On or about December 1, 2004, the Oregon Board reinstated respondent's Oregon
12 family nurse practitioner certificate after respondent complied with the reinstatement conditions
13 in its Final Order by Default.

14 17. On or about January 14, 2011, respondent entered into a Stipulation for Reprimand of
15 Registered Nurse License and Nurse Practitioner Certificate with Conditions (Stipulation) with
16 the Oregon Board. This Stipulation stated that, among other acts, in 2010 respondent resigned
17 from a position and left a clinic before her shift had ended, without informing staff, and without
18 ensuring that she had completed care for all her scheduled patients.

19 18. On or about February 16, 2011, the Oregon Board approved the Stipulation and
20 reprimanded respondent's Oregon registered nurse license and Oregon family nurse practitioner
21 certificate.

22 19. On or about October 27, 2011, the Texas Board of Nursing (Texas Board) issued an
23 adverse licensure action against respondent's Texas registered nurse license based on the
24 discipline actions in Oregon in 2004 and 2011.

25 20. On or about February 14, 2012, the Texas Board found respondent in default on these
26 allegations when she did not appear at the scheduled hearing, and revoked her Texas registered
27 nurse license.

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1 **CAUSES FOR DISCIPLINE**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **Unprofessional Conduct: 2004 Out-of-State Disciplinary Action in Oregon**
4 **Bus. & Prof. Code, §§ 141, 2761, subd. (a)(4)**

5 21. The allegations of paragraphs 13-16 are realleged and incorporated by reference as if
6 fully set forth.

7 22. Respondent has subjected her Registered Nurse License Number 441790 to
8 disciplinary action under sections 141 and 2761, subdivision (a)(4), for the unprofessional
9 conduct of disciplinary action against a health care professional license by another state or
10 territory of the United States or by any other government agency. As set forth in paragraphs 13-
11 16 above, in 2004 the Oregon Board issued a Final Order by Default, suspending respondent's
12 Oregon family nurse practitioner certificate because she did not request a hearing on the charges
13 that in 2002 she prescribed an inappropriate medication for a patient and did not prescribe the
14 community standard regiment of antibiotics for an infection in that same patient.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **Unprofessional Conduct: 2011 Out-of-State Disciplinary Action in Oregon**
17 **Bus. & Prof. Code, §§ 2761, subd. (a)(4)**

18 23. The allegations of paragraphs 13 and 17-18 are realleged and incorporated by
19 reference as if fully set forth.

20 24. Respondent has subjected her Registered Nurse License Number 441790 to
21 disciplinary action under sections 141 and 2761, subdivision (a)(4), for the unprofessional
22 conduct of disciplinary action against a health care professional license by another state or
23 territory of the United States or by any other government agency. As set forth in paragraphs 13
24 and 17-18 above, in 2011 the Oregon Board reprimanded respondent's Oregon registered nurse
25 license and Oregon family nurse practitioner certificate for, among other things, in 2010 resigning
26 from a position and leaving a clinic before her shift had ended, without informing staff, and
27 without ensuring that she had completed care for all her scheduled patients.

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THIRD CAUSE FOR DISCIPLINE
Unprofessional Conduct: Out-of-State Disciplinary Action in Texas
Bus. & Prof. Code, §§ 141, 2761, subd. (a)(4)

25. The allegations of paragraphs 13-20 are realleged and incorporated by reference as if fully set forth.


26. Respondent has subjected her registered nurse license to disciplinary action under sections 141 and 2761, subdivision (a)(4), for the unprofessional conduct of disciplinary action against a health care professional license by another state or territory of the United States or by any other government agency. As set forth in paragraphs 13-20 above, in 2011 the Texas Board issued an adverse licensure action against respondent's Texas registered nurse license based on the discipline actions in Oregon in 2004 and 2011. In 2012 the Texas Board found respondent in default on these allegations and revoked her Texas registered nurse license.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this accusation, and that following the hearing the Board issues a decision:

1. Revoking or suspending Registered Nurse License Number 441790 issued to Janet Arlene Matthews, a.k.a. Janet Arlene Palumbo;
2. Revoking or suspending Nurse Practitioner Certificate Number 22273 issued to Janet Arlene Matthews, a.k.a. Janet Arlene Palumbo;
3. Ordering Janet Arlene Matthews, a.k.a. Janet Arlene Palumbo, to pay the Board the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 17, 2013


for LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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